

SENATE BILL 2188
By Miller

AN ACT to amend Tennessee Code Annotated, Section
39-17-1551, relative to tobacco use in certain
public establishments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Uniform Tennessee
Enjoyment of Clean-Air Act".

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 17, Part 15, is amended by
deleting § 39-17-1551 in its entirety and by substituting instead the following:

Section 39-17-1551.

(a) In protection of public health, safety and general welfare, it is the intention of
the general assembly that this section reduce the extent to which the public is exposed
to environmental tobacco smoke in public establishments where food and drink,
including alcoholic beverages, wine or beer, are sold for consumption on the premises.

(b) As used in this section, unless the context otherwise requires:

(1) "Alcoholic beverage" or "beverage" means and includes alcohol,
spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable
of being consumed by a human being, other than patented medicine or beer
where the latter contains an alcoholic content of five percent (5%) by weight, or
less. Notwithstanding any provision to the contrary in this title, "alcoholic
beverage" or "beverage" also includes any liquid product containing distilled
alcohol capable of being consumed by a human being manufactured or made
with distilled alcohol irrespective of alcoholic content;

(2) "Beer" means beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than five percent (5%) by weight, except wine as defined in subdivision (1);

(3) "Restaurant" means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served. "Restaurant" shall also include any establishment that has a license to sell alcoholic beverages or beer for consumption on the premises; and

(4) "Smoking" means the burning of a lighted cigarette, cigar, pipe or any other substance containing tobacco.

(c) Smoking is not permitted, and no person shall smoke, in a restaurant.

(d) "No Smoking" signs, or the international "No Smoking" symbol, which consists of a pictorial representation of a burning cigarette enclosed in a circle with a bar across it, shall be prominently posted and properly maintained throughout all areas of a restaurant to ensure that the public is aware of the restriction.

(e) A violation of this section is a Class B misdemeanor, punishable only by a fine.

(f) The general assembly intends by this section and other provisions of Tennessee code annotated to occupy and preempt the entire field of legislation concerning the regulation of tobacco products. Any law or regulation of tobacco products enacted or promulgated after March 15, 1994, by any agency or political subdivision of the state or any agency thereof is void; provided, that cities, counties and counties having a metropolitan form of government may regulate the use of tobacco products in buildings owned or leased by such political subdivisions; and provided further, that airport authorities created pursuant to the provisions of title 42; utility

districts created pursuant to the provisions of title 7; and special school districts may regulate the use of tobacco products in buildings owned or leased by such entities. Notwithstanding any other provision of the law to the contrary, individual owners or operators of retail establishments, excluding restaurants, located within an enclosed shopping mall shall retain the right to determine the policy on the use of tobacco products within such person's establishment.

SECTION 3. This act shall take effect July 1, 2005, the public welfare requiring it.